IN THE HIGH COURT OF JUDICATRE AT MADRAS

DATED:21.03.2006

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE J.A.K. SAMPATHKUMAR

H.C.P.No.165 of 2006

D. Sivagami .. Petitioner
Salem - 4.

vs.

1. The State of Tamil Nadu
   rep. by its Secretary to Government
   Co.operation, Food and Consumer
   Protection E-1 Department
   Fort St. George, Chennai 9.

2. The District Collector &
   District Magistrate
   Salem District
   Salem. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas corpus as stated therein. directing the respondents to produce the body of the detenue Durai @ Duraisamy who is detained in the Central Prison, Salem before this Court and pass such other order or orders and call for the records of detention order imposed upon the detenue in CMP NO. 3/P.B.M.S.E.C. Act/J3/2005, dated 26.12.2005 passed by the second respondent and set aside the same and set the detenue of liberty

For petitioner : Mr. V. Padmanaban

For respondents: Mr. Abudukumar Rajarathinam
Govt. Advocate (Crl.side)

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ORDER
(ORDER of the Court was made by P.SATHASIVAM,J.)

The petitioner by name Sivagami, wife of the detenu Durai @ Duraisamy, who was detained as a "Black Marketer" under Section 3 (2) (a) read with 3 (1) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980, by the impugned proceedings dated 26.12.2005, challenges the order of detention in this petition.

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2. Heard both sides.

3. The learned counsel appearing for the petitioner after taking us through the grounds of detention and all other materials filed in the form of booklet, contended that the certificate issued by the Quality Control Officer, which is available at pages 54 and 55 of the paper book, is not a valid certificate and the detention order passed relying on the said document cannot be sustained. In other words, according to the learned counsel, there is no legal evidence/material to sustain the order of detention.

4. As against the said contention, learned Government Advocate, by placing before us the proceedings in original including the certificate issued by the Quality Control Officer, would contend that after proper analysis of the rice seized from the detenu, the Officer concerned, viz., Assistant Quality Inspector and Assistant Manager (Q&C) arrived at a conclusion that the rice seized is meant for distribution under Public Distribution System and issued such a certificate. The original certificate produced by the learned Government Advocate also contains the signatures of both the Officers. He further contended that in the confession statement, which is available at page 37 of the paper book, the detenu himself has admitted that the rice in his possession was purchased by him from various persons, who had secured the same from the ration shops (PDS). In the confession statement he also admitted that after purchasing the rice from those persons, he used to sell at higher price. By placing reliance on the certificate of the Quality Control Officer and the confession statement as well as the provisions of the Tamil Nadu Scheduled Commodities (Regulation of Distribution by Card System) Order, 1982, learned Government Advocate contended that the detaining authority is fully justified in passing the impugned order; accordingly, he prayed for dismissal of the above petition.

5. We have carefully considered the rival contentions and perused the relevant materials.

6. Inasmuch as the learned counsel for the petitioner vehemently contended that the Quality Certificate issued by the Regional Laboratory, Tamil Nadu Civil Supplies Corporation is not a legal document/evidence, we verified the said document. A perusal of the original quality certificate shows that after examining the rice seized from the detenu and after conducting various tests, the authority concerned arrived at a conclusion that it belongs to PDS rice. After arriving at such a conclusion, Assistant Quality Inspector and Assistant Manager (Q&C), who verified, ascertained and concluded as to the quality of the rice, have signed the said certificate. No doubt, it is the grievance of the petitioner that the copy served on the detenu does not contain the signature of any one of the Officers as found in original certificate. As rightly

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pointed out, the copy supplied to the detenu is a clean typed copy, duly certified as true copy of the same by the sponsoring authority. On going through the copies supplied to the detenu which are available in the paper book as well as the originals available in the file and in the light of the explanation offered, we are unable to accept the contention of the learned counsel for the petitioner.

7. The perusal of grounds of detention makes it clear that on 20.12.2005 at about 10 p.m. when the Sub Inspector of Police, Civil Supplies CID, Salem and his party along with the flying squad staff of the Revenue Department were conducting vehicular checking in front of Mohan Kumaramangalam Medical College, Steel Plant Road, Salem, they intercepted a lorry bearing registration No.TNC 6912 plying from Tharamangalam to Salem and found that 120 bags of rice meant for distribution through the Public Distribution System were smuggled. The rice bags were seized and the lorry driver Raja and one Durai @ Duraisamy were arrested. They were informed about the reason for the arrest. Later, 120 bags of rice and the lorry bearing registration No.TNC 6912 were seized from Durai and Raja in the presence of witnesses and a case in Salem Civil Supplies C.I.D. Cr.No.820/2005 under Section 6(4) TNSC (RDCS) Order, 1982 r/w.7(1)(a)(ii) of Essential Commodities Act, 1955 was registered against the detenu viz., Durai @ Duraisamy and Raja and both of them were produced before the Judicial Magistrate No.I, Salem and remanded to judicial custody at the Central Prison, Salem. Thereafter, the sample of seized rice was sent to the Court for obtaining the report of Quality Control Inspector, Salem Regional and accordingly, obtained the Quality Certificate. Based on the above materials and the certificate of the Quality Control Inspector, the detaining authority, after satisfying himself that the detenu Durai @ Duraisamy, who is having no retail/wholesale licence under TNETA (RT) Order, 1984 and TNSC (RDCS) Order, 1982, arrived at a conclusion that the detenu is a black-marketer as contemplated under Section 3(2)(a) read with Section 3(1) of the Act.

In the light of the materials available in the grounds of detention and after going through the original certificate issued by the Quality Control Officer, we are unable to accept the contention raised by the learned counsel for the petitioner. Accordingly, this petition fails and the same is dismissed.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Govt.of Tamil Nadu
   Co.operation, Food and Consumer
   Protection E-1 Department
   Fort St. George, Chennai 9.

2. The District Collector &
   District Magistrate
   Salem District
   Salem.

3. The Superintendent Central Prison
Salem.

4. The Joint Secretary to Government of
Tamil Nadu, Public (Law and order)
Department, Fort Saint George, Chennai - 600 009

5. The Public Prosecutor, High Court, Madras

+ one cc to Mr. V. Padmanabhan, Advocate sr no. 13926

JRG(CO)
NM(23.03.2006)

Order in
HCP.No.165 of 2006

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